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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,036	08/07/2001	David S. Puente	CY-Y0081	1462

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EXAMINER
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YIMAM, HARUN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/924,036

Applicant(s)

PUENTE ET AL.

Examiner

Harun M. Yimam

Art Unit

2611

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**CHRISTOPHER GRANT**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**  
Part of Paper No. 01272006

Continuation of 11. does NOT place the application in condition for allowance because:

1. In response to applicant's argument (page 2, 2nd paragraph) that nothing in Burns teach a content processing center, the cited content processing server (content server 52 in figure 2 in Burns) is for processing media content (as shown by Burns in column 5, line 66 - column 6, line 7 and column 9, line 35-48, wherein the retrieval and transmission of content to the cache server requires the content to be processed, this is a fundamental aspect of computing devices, as acting on data is to process it) and serves the media content in the form of video, audio, and text (column 5, line 66 - column 6, line 1).
2. In response to applicant's argument (page 3, 2nd paragraph) that Lumley does not disclose the source of media content, the Examiner cites 14 in figure 1 and column 4, line 66 - column 5, line 18, wherein Lumley discloses the source of media content comprising video, audio, and textual content (column 5, lines 34-35) for distributing various promotional materials to multiple users (column 5, lines 19-35).
3. In response to applicant's argument (page 3, 2nd paragraph) that Lumley is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to that particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Lumley, like Burns, pertains to the field of transmitting data from one point to another (i.e. in the field of applicant's endeavor).
4. In response to applicant's argument (page 3, 4th paragraph) that Burns does not teach, suggest or imply generating a streaming media presentation, the Examiner cites column 6, lines 1-7, wherein Burns inherently discloses generating a streaming media presentation comprising integrated static HTML pages by disclosing that the content server multicasts HTML pages. Burns further discloses that the content processing center (content server—52 in figure 2) serves the media content in the form of video, audio, and text (column 5, line 66 - column 6, line 1), wherein the HTML pages are also stream along with associated audio and video content (said content is then stored in CMS 126, as stated in column 9, lines 45-58 and lines 56-65).
5. In response to applicant's argument (page 4, 3rd paragraph) that element 54 of figure 2 in Burns nor col. 6, lines 22-27 and col. 5, lines 65 - col. 6, line 2 teach the content processing center, the Examiner would like to further clarify that element 54 was introduced as a satellite for transmitting streaming media presentation, as required by the claim, since it is a high bandwidth network (col. Lines 16-19) that is connected to the content server (52) that provides audio, video and other multimedia (col. 5, lines 65 - col. 6, line 2) it might be implemented as satellite (col. 6, lines 22-27). The content processing center (content server 52 in figure 2 of Burns) is addressed above.
6. In response to applicant's argument (page 4, 5th paragraph) that Burns does not teach, suggest or imply the source of media content, the content processing server, or the satellite for transmitting, the Examiner would like to further clarify that it is Lumley who discloses the source of media content, as addressed above. The content processing server and the satellite for transmitting streaming media presentation are also addressed above.
7. In response to applicant's argument (page 4, 5th paragraph) that Burns does not teach, suggest or imply a cache server for receiving and storing the transmitted streaming media presentation, the Examiner cites column 6, lines 56-65, wherein Burns discloses a cache server (72 in figure 2) having a storage 78 in figure 2 and caches internet resources/media presentation requested by the subscribers (col. 9, lines 56-65).
8. In response to applicant's argument (page 4, 5th paragraph) that Burns does not teach, suggest or imply one or more client computers coupled to the cache server that each comprise browser software for accessing the streaming media presentation, the Examiner cites column 6, lines 48-65, wherein Burns discloses one or more client computers (58 and 60 in figure 2) coupled to the cache server (connected to the ISP 56, which comprises the cache server—column 6, lines 48-50) each inherently comprising a browser software (column 8, lines 5-15) for accessing the streaming media presentation, because a browser is used for accessing information from a web page.
9. In response to applicant's argument (page 5, 5th paragraph) that Lumley does not teach, suggest or imply a source of media content, the Examiner cites column 5, lines 1-18, wherein Lumley discloses a source of media content (promotional material data source—14 in figure 1) comprising video, audio, and textual content (promotional material includes any desired combination of text, graphics, audio, and video—column 5, lines 34-35).
10. In response to applicant's argument (page 5, 5th paragraph) that there is no suggestion to combine Burns with Lumley, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the cited benefit of distributing various promotional materials to multiple users is expressly recited in Lumley, see column 5, lines 19-35.
11. In response to applicant's argument (page 6, 4th paragraph) that Omoigui does not teach, suggest or imply a searchable streaming media presentation using metadata integrated with video and audio, the Examiner cites paragraph 22, lines 1-7, wherein Omoigui discloses a streaming media presentation (paragraph 19, lines 1-7) that is searchable using the metadata (descriptive

presentation information) integrated with the video and audio (paragraph 22, lines 1-7) for the benefit of searching for a particular media presentation (paragraph 22, lines 5-7).

12. In response to applicant's argument (page 7, 6th paragraph) that there is no suggestion to combine Omoigui with Burns and Lumley, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the cited benefit of searching for a particular media presentation as expressly recited in Omoigui, see paragraph 22, lines 5-7.

13. In response to applicant's argument (page 7, 3rd paragraph) that Omoigui does not appear to be an effective reference since it is a publication based on an earlier filed patent application which apparently has not been published or granted, see MPEP 2163.02, which describes office policy regarding the applicability of pre-grant publications as prior art. Furthermore, as stated in the MPEP 2163.02 "It is the earliest effective U.S. filing date (which will include certain international filing dates) of the U.S. patent or application publication being relied on as the critical reference date..." It is the earliest effective US filing date of the Omoigui publication upon which the office relies upon as the effective date of the publication.

14. In response to applicant's argument (page 7, 5th paragraph) that Nagai does not teach, suggest or imply selectively processing...integrating...and transmitting steps, it is Burns who teaches those steps: selectively processing graphics and text associated with a streaming media presentation to create a dynamic hypertext markup language (HTML) page (column 5, line 66 – column 6, line 7) corresponding thereto; processing video and audio (column 5, line 66 – column 6, line 1) to extract metadata associated with the presentation (hyperlinks for hypermedia document to various data items, such as video and audio—column 6, lines 1-7 and column 9, lines 42-50); encoding the video, audio, and metadata in a predetermined format (the media content has to inherently be formatted/encoded for suitable transmission); integrating static HTML page with encoded video, audio, and metadata (since the content server multicasts HTML pages: web pages, that links text, audio, and video, and the media content has to inherently be formatted/encoded for suitable transmission, the HTML page is inherently integrated with the streaming media before multicasting—column 5, line 66 – column 6, line 7); transmitting the streaming media presentation comprising the integrated static HTML page and encoded video, audio, and metadata to a remotely located cache server where it is stored (column 6, lines 22-25 and 56-65). Nagai was brought in to teach converting the dynamic HTML page into a static HTML page, the Examiner cites column 7, lines 50-52, wherein Nagai discloses converting dynamic contents into a static HTML page (obtain a static HTML content from dynamic contents—column 7, lines 50-52). The dynamic contents of Nagai constitute at least one dynamic HTML page in that an HTML page is a set of HTML contents. Since Nagai discloses that a set of HTML contents are converted to a set of static HTML contents, Nagai clearly discloses converting a dynamic HTML page into a static HTML page.

15. In response to applicant's argument (page 8, 2nd paragraph) that there is no suggestion to combine Burns and Nagai, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the cited benefit of generating a static digest/summary of a multimedia from a plurality of media data as expressly recited in Nagai, see column 6, lines 39-43 and column 7, lines 50-52..